

# The Orissa Gazette



EXTRAORDINARY  
PUBLISHED BY AUTHORITY

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No. 1166 CUTTACK, FRIDAY, JULY 13, 2007 /ASADHA 22, 1929

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## LABOUR & EMPLOYMENT DEPARTMENT

### NOTIFICATION

The 26th June 2007

No. 8151—li/ 1(B) - 125/1997(Pt.) - L. E. — In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 30th March 2007 in I.D. Case No. 8 of 1998 of the Presiding Officer, Labour Court, Bhubaneswar to whom the industrial disputes between the Executive Officer, Jajpur Road Municipality, Jajpur Road and its workman Shri Achyutananda Mallick was referred for adjudication is hereby published as in the Schedule below :—

#### SCHEDULE

IN THE LABOUR COURT,  
BHUBANESWAR  
INDUSTRIAL DISPUTE CASE NO.8 OF 1998  
Dated the 30th March 2007

*Present :*

Shri S. K. Mohapatra, o.s.j.s. (Jr. Branch),  
Presiding Officer,  
Labour Court, Bhubaneswar.

*Between :*

The Executive Officer, Jajpur Road .. First Party—Management  
Municipality, Jajpur Road.

*And*

His Workman .. Second Party—Workman  
Shri Achyutananda Mallick.

*Appearances :*

For the First Party—Management .. None

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For the Second Party—Workman .. Shri A. N. Mallick himself

#### AWARD

The Government of Orissa, Labour & Employment Department referred the present dispute between the Executive Officer, Jajpur Road Municipality, Jajpur Road and his workman Shri Achyutananda Mallick under Notification No. 7559-L.E., dated the 27th June 1995 vide memo No. 3671 (4)-L.E., dated the 2nd April 1998 for adjudication by this Court .

2. The terms of reference by the State Government is as follows:—

"Whether the refusal of employment to Shri Achyutananda Mallick by the management of Jajpur Road Municipality, Jajpur Road with effect from the 1st November 1995 is legal and/or justified ? If not, to what relief is Shri Mallick entitled to ?"

3. Shorn of all unnecessary details, the case of the workman is as follows :—

The workman was working as a D. L. R. under the Executive Officer, Jajpur Road Municipality, Jajpur Road (hereinafter referred to as the management) on a daily wage of Rs. 25 with effect from April, 1992. The workman had been performing his duty as Watchman of the Town Hall of the management without any interruption till dated the 15th October 1995. No regular order of appointment had been issued to the workman. Due to illness the workman was on leave from dated the 15th October 1995 to the 31st October 1995 after duty submitting his leave application to the authority of the management. When the workman recovered from his illness he went to join his work but the management refused employment to allow him to join his duty. Being aggrieved by the termination of his service by way of refusal of employment, the workman put forth his grievances before the local Labour Authorities who started a conciliation proceeding which ultimately failed and the present case was referred to this Court for adjudication.

4. The management has been set *ex parte* vide order dated the 2nd November 2005

5. The workman has examined himself as W. W. 1. In his evidence the workman has deposed that he had been working continuously as Watchman under the management since April, 1992 to the 15th October 1995. Further evidence of W.W. 1 is that he suffered from illness and he proceeded on leave for 15 days. According to W. W. 1 when he returned from his leave, the management refused employment to him. In his evidence W. W. 1 has further stated that he was in continuous service and that he had worked for more than 240 days during the 12 months preceding the termination of his service by way of refusal of employment. Further evidence of W.W.1 is that the management did not observe the statutory provisions under the Industrial Disputes Act, 1947 while terminating his service and did not issue any notice to him and did not give him any compensation when his service was terminated. Such evidence of the workman goes completely unchallenged. From its very nature of work a Municipality comes within the definition of term 'Industry' as defined under Section 2 of the Industrial Disputes Act, 1947. In his evidence the workman has categorically stated that he had completed more than 240 days of work during 12 months preceding the date of his termination from service by way of refusal of work. Therefore, it is held that the termination of the service of the workman without observing the provisions contained under Section 25-F of the Industrial Disputes Act, 1947 is illegal and unjustified. Consequently the workman is entitled to the benefit of reinstatement in service with 25% (twenty-five per cent) of the back wages.

The reference is answered accordingly.

Dictated and corrected by me.

S. K. MOHAPATRA

30-3-2007

Presiding Officer

Labour Court, Bhubaneswar

S. K. MOHAPATRA

30-3-2007

Presiding Officer

Labour Court, Bhubaneswar

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By order of the Governor

N. C. RAY

Under-Secretary to Government

Printed and published by the Director of Printing, Stationery and Publication, Orissa, Cuttack-10

Ex. Gaz. 816-193+11